
MAXCY - MARYLAND RESOLUTIONS BALTIMORE 1822

THE

Maryland Resolutions,

AND THE

OBJECTIONS TO THEM

CONSIDERED.

BY A CITIZEN OF MARYLAND.

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ADVERTISEMENT.

A CONSIDERABLE impression having been made upon the public mind, against the Maryland Resolutions in favour of the appropriation of public land for the promotion of education, by the adverse resolutions of Massachusetts, it was thought important by some persons, who felt an interest in the accomplishment of the object proposed by the former, that the numerous errors in point of fact, as well as argument, in the report, which led to the adoption of the latter, should be made known. It was thought expedient also, that objections from other quarters, originating either in misapprehension or misrepresentation, should be answered, and the true merits of the question discussed and explained. The writer of the following remarks, being requested to undertake the task, has consented, but has been obliged to execute it in haste, amidst other avocations, which hardly left him an hour without interruption; a circumstance, which he thinks it necessary to mention, as an excuse for the negligence of style and want of method, which will be apparent to the critical reader. He thinks it proper to mention, also, in order to avoid the imputation of plagiarism, that he has heretofore published several pieces in newspapers, in answer to objections, raised against the Maryland Resolutions, and that, to save himself time and trouble on the present occasion, he has incorporated parts of those pieces, *verbatim*, into the present essay.

THE

MARYLAND RESOLUTIONS.

THE MARYLAND RESOLUTIONS, in relation to the appropriation of public land for the purposes of education, have attracted much attention throughout the union. The Legislatures of a majority of the states, it is believed, have passed concurrent resolutions. Some of the rest have not definitely acted upon the subject, and others have passed adverse resolutions. This diversity of proceedings might naturally have been expected in relation to a measure, novel in its character, affecting in different ways and degrees the several states of the union, and involving considerable difficulty in details, although all should concur in approving its object the general education of the people.

Without stopping to prove, what all the enlightened friends of freedom, of virtue, and human happiness acknowledge, the pre-eminent importance in a republican government of diffusing amongst those, with whom all political power originates, the means of acquiring a knowledge of their rights and a capacity to judge of the qualification of their agents, we shall proceed at once to an examination of the plan, proposed by the Legislature of Maryland, for the accomplishment of so desirable an object, and of the objections which have been raised against it.

In the prosecution of this examination, we shall endeavour to shew, *First*, The real meaning and extent of the MARYLAND PROPOSITION;—*Secondly*, That its accomplishment is not only perfectly consistent with, but demanded by justice;—and, *Lastly*, We shall discuss the mode of carrying it into effect. Under these several heads, we shall attempt to give a satisfactory answer to the objections, which have been made to that proposition, and

which naturally divide themselves into those, which have arisen from a misconception of it;—from an impression that it is unjust;—and from an apprehension, that the difficulty of its execution is insurmountable.

The MARYLAND PROPOSITION is contained in the following resolutions, viz;

"*Resolved, by the General Assembly of Maryland,* That each of the United States has an equal right to participate in the benefit of the Public Lands, the common property of the union.

"*Resolved,* That the states, in whose favour Congress have not made appropriations of land for the purposes of education, are entitled to such appropriations as will correspond, in a just proportion, with those heretofore made in favour of the other states."

To the first resolution, no objection, it is believed, has been, or can be made.

In discussing the merits of the second resolution, it is not deemed necessary to trace, with the committee of the Maryland Senate, the title of the union to the public lands. They are admitted, on all hands, to be the *common property of the people of the United States.* It is necessary, however, to understand the course, which Congress have pursued in disposing of this *common property,* which is subjected to their entire control by the third section of the fourth article of the Federal Constitution.

The Maryland Committee state, that, "By the laws relating to the survey and sale of the public lands, one thirty-sixth part of them has been reserved and appropriated in perpetuity for the support of common schools. The public lands are laid off into townships, six miles square, by lines running with the cardinal points; these townships are then divided into thirty-six sections, each a mile square, and containing 640 acres, which are designated by numbers. Section, No. 16, which is always a central section, has invariably been appropriated, (and provision has been made by law for the like appropriations in future surveys,) for the support of common schools in each township.

"In Tennessee, in addition to the appropriation of a section in each township for common schools, 200,000 acres have been assigned for the endowment of colleges and academies. Large appropriations have also been made in Ohio, Indiana, Illinois, Mississippi, Alabama, Louisiana, Missouri, Michigan, and the

North Western Territory, for the erection and maintenance of seminaries of learning of a higher rank than common schools."

Without pretending to precision in their calculations, the Maryland Committee estimate the donations of land to seminaries of learning of a higher class to be equal to one fifth part of the appropriations for common schools. As the General Government are bound to continue this system of appropriations for common schools by a compact between the United States and each of the states formed out of the public lands, (which will be hereafter noticed) the Committee proceed to shew, that the number of acres appropriated, and to be appropriated for the purposes of education in the new states and territories on the east of the Mississippi will be 7,909,903. They shew also that the aggregate number of acres to be applied to the same object on the west of that river will be 6,666,666 2-3; which number, added to the former, makes, 14,576,569 2-3 acres.

The object of the Maryland Committee in making these calculations, manifestly is, to excite the public attention, by its importance, to a system of appropriations of *national property* for the purposes of education, to the use of a *part* only of the states, which seemed to have attracted but little notice; for immediately after it they say;

"Such is the vast amount of property, destined for the support and encouragement of learning in the states and territories, carved out of the public lands. These large appropriations of land, the *common* property of the union, will enure to the *exclusive* benefit of those states and territories. They are appropriations for STATE and not for NATIONAL purposes;—they are of such a nature, that they might have been extended to all the states; they therefore ought to have been thus extended."

When this system first began, upon the admission of Ohio into the union, with a population of a few thousands only, before a proper estimate was put upon the value of the public lands, as property and a source of revenue, it was calculated to excite but little attention. It was natural, that, on the admission of other states, Congress should, to save the trouble of repetition, refer back to the act giving admission to Ohio, and grant the same terms; and we presume, that few people in the United States ever reflected upon the extent and amount of the bounty of Congress

for literary purposes to the new states in the west, Kentucky excepted, until their attention was drawn to it by the Maryland Report. To rouse that attention, and to claim for the states, which had been neglected, a participation in that bounty upon principles of equity, was clearly the leading motive of the Maryland Committee.

From several statements, which have appeared, and particularly a report upon the subject to the Legislature of Massachusetts, by a joint committee of the Senate and House of Representatives, this object of the Maryland Committee seems to have been misunderstood. The Massachusetts Committee suppose, that a statement of the amount of the public lands, and the amount of appropriations for schools, which will ultimately be assigned to the states and territories, formed out of the public lands, was made for the purpose of augmenting the amount, to which the states, that have had no grants for the purposes of education, would be entitled. Hence you find that committee saying; "they cannot avoid remarking upon the extraordinary nature and amount of these estimates and deductions. The boundless and trackless regions of Louisiana, for instance, which are yet not only unexplored, but over the greater part of which, even the eye of an American citizen has never wandered, is [are] taken to be a *present* valuable and available fund, out of which, in their whole extent, reservations may be made; and, therefore, that the old states have a right to claim a quantity of land, proportionate to these reservations, *to be set off to them, within the settled states and territories.*" Then, after describing those regions as of little value, they proceed to say. "If these lands can be taken into the amount for the purpose of *swelling* the quantity upon which *our proportion* is to be calculated, all being taken, as it is to be, of equal value, we cannot perceive, why it would not be equitable to satisfy our claim out of the same lands." They then add in a manner, very much resembling a *sneer*, which we regret to perceive, in those representing so grave and respectable a body as the "General Court" of Massachusetts, while speaking of a proceeding of a sister state, entitled in every way to respect; "But the grant of a few hundred or even a few millions of acres, upon the upper branches of the Yellow Stone River, along the eastern slope of the Rocky Mountains, or even upon the vallies of the

Columbia River, would hardly be regarded as a favour by Maryland or Massachusetts, especially if they were under obligation to survey them for a century to come." In another part of the Masssachusetts Report, we find the Committee speaking "of that part of the claim of the old states founded upon a computation of the 400,000,000 acres, not yet sold, surveyed, or explored."

Now it appears to us, that the Massachusetts Committee have not examined the Maryland Report and Resolutions, upon which they are commenting for the instruction of the Legislature, with the degree of attention necessary to accuracy in their statements. We have read over the Maryland Report and Resolutions with great care, and cannot discover that, in any part of them, "the boundless and trackless regions of Louisiana are taken to be a *present* valuable and available fund, out of which in their whole extent reservations may be made." Nor that the Maryland Committee contend, that "the old states have a right to claim a quantity of land proportionate to these reservations, *to be set off to them within the settled states and territories.*"—Nor do we find, that "these lands," meaning "the boundless and trackless regions of Louisiana," "are taken into the amount for the purpose of swelling the quantity upon which our proportion is to be calculated."

The Massachusetts Committee seem from the above quotations, as well as other passages in their Report, to have fallen into the strange mistake of supposing that Maryland claims for herself and other states an appropriation of public lands for the purposes of education, *bearing some sort of proportion to,* (what proportion is not stated) *and in some way or other depending upon, the amount of public lands, owned by the United States.* If the reader will take the trouble of referring back to the Resolutions of the Legislature of Maryland, set forth in the beginning of these remarks, he will perceive, that the object of those Resolutions clearly is, to obtain of Congress, for the states which have received none, grants of school lands, *bearing a just proportion to those which have already been made to others.* The claim set up would be *equally valid,* and the *same in amount,* if appropriations of land for the purposes of education had heretofore been made in favour of *one state only,* instead of *all the states and territories*

*formed out of the public lands.** It has no relation to, or dependence upon, the quantity of those lands. It would have been precisely the same which it is now, *if Louisiana had never been purchased of France.* It holds this language to Congress; "You are bound to treat all the states with impartiality. You have made grants of land for the promotion of education, to some of the states; now make grants to the others, for the same purpose and in just proportion." The Maryland Legislature does not undertake to determine, what that proportion is, under what restrictions, or in what form, or on what conditions, or in what place, whether in the *settled* or the *unsettled* states and territories, the grants ought to be made; but leaves all these matters to the wisdom and justice of Congress, the only competent power to decide.

The above train of argument will serve to shew, that, as the extension of the present system of reservations of school lots to all the "boundless and trackless regions of Louisiana" will not affect, either the amount or the validity of the claim set up by Maryland, so neither has the speedy sale of "every acre" of the public lands any bearing upon the subject. Although it may be well to mention, as another instance of the liability of the Massachusetts Committee to misapprehension, that they represent the sale of "every acre" of the public lands as "an event, of the certain and speedy accomplishment of which the Legislature of Maryland seem to entertain no doubt." From what source the Committee received an impression, which justified them in attributing to the Maryland Legislature so extravagant and preposterous an expectation we know not. Of one thing we are certain, they could not have derived it from the Maryland Report.

Again, the Massachusetts Committee have mistaken the valuation of the school sections at two dollars per acre, in the Maryland Report, as an estimate of their *present* instead of their *future* value, (which last from the use of the future tense was manifestly intended) and thereby have thrown an air of exaggeration over the whole calculation of the Maryland Committee.

*Indeed, the amount to be claimed would be *greater*, for, in the case supposed, *all* the states except the favoured *one*, would have a right to join in the claim for a *proportional* share.

Again, the Massachusetts Committee consider Congress as at liberty to discontinue the appropriation of the school sections, wherever the rights of purchasers have not intervened, and to abolish the system entirely in the future disposition of public lands, wherever no part of a township has been sold; and they think it "quite manifest," that the school "reservations cannot be regarded as a grant to any *state*," "or to the *people* of any state." "The state governments," say they, "have no control over them and can make no disposition of them." Surely the compact entered into between the United States and Ohio, to be found in the act passed in 1802, for its admission into the union, and which has since been extended to all the other states successively formed out of the public lands, must have entirely escaped the notice of the Massachusetts Committee. That compact is in the following words, viz;

"Sec. 7. The following *propositions* are hereby offered to the convention of the eastern section of said territory, when formed, for their free acceptance or rejection; which, if accepted by the convention, shall be obligatory upon the United States;

"First, That the section number sixteen, in every township, and where such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township, for the use of Schools.

"Secondly, That the six miles reservation, including the salt springs, commonly called the Scioto Salt Springs, the salt springs near the Muskingum River, and in the Military Tract, with the sections of lands which include the same, shall be granted to the said state, for the use of the people thereof, the same to be used under such terms and conditions as the legislature of the said state shall direct; Provided, The said legislature shall never sell, nor lease the same for a longer period than ten years.

"Thirdly, That one twentieth part of the nett proceeds of the lands lying within the said state, sold by Congress from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, in the said state, and through the same; such roads to be laid out under the authority of Congress, with

the consent of the several states through which the roads shall pass; Provided always, That the three foregoing propositions herein offered, are on the *condition*, that the convention of the said state shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by Congress, from and after the thirtieth day of June next, shall be, and remain, exempt from any tax laid by order, or under authority of the state, whether for state, county, township, or any other purpose whatever, for the term of five years from and after the day of sale."

To say, after reading the above extract, that Congress are at liberty to discontinue the school reservations in a single township in any part of any of the new states, is to say, that the United States may violate their faith and break their solemn compact. The propositions contained in it were made by Congress to the Convention of the state and accepted by it. And it will be found by turning to the statute book of Ohio, or of any of the other states, having school lands, that the legislatures of those states are constantly in the habit of passing laws respecting the management and use of them, from which it appears, that the state governments have every sort of control over them, except the power of selling them and converting them to other uses, than those specified in the compact, by which they are granted.

Under this erroneous impression respecting the powers of Congress, and of the new states, the Massachusetts Committee make the following remarks, viz; "Considering these school reservations, beyond townships actually sold, as altogether contingent, depending upon the will and judgment of Congress, and to be affected by varying views of policy, your Committee cannot but regard, with extreme surprise, the *language* of the Legislature of Maryland, in which they speak of the whole 14,576,000 acres, being the aggregate of what these reservations *will be*, throughout the whole of the unsurveyed territory of the United States, as land, which '*has already been* GIVEN *to the favoured States and Territories*,' and thereupon to found a demand for an immediate allowance of a proportionate amount in behalf of the excluded states."

We think no comment whatever necessary upon the foregoing paragraph of the Massachusetts Report, farther than to state, what

will probably cause the reader "extreme surprise," that the words, quoted as the *language* of the Legislature of Maryland, which the Massachusetts Committee "cannot but regard with extreme surprise," are *no where to be found in the Maryland Report.*

The last mistake into which the Massachusetts Committee have fallen, in imputing views to Maryland, which are not to be found in the only official document published on the subject, is contained in the following words; "The legislature of Maryland proposes that they [the lands] should be distributed amongst these states in proportion to their respective superficial extent." They were led into this error, most probably, by a calculation which is made in the Maryland Report for the purpose of shewing the *aggregate* amount, to which the states, that have received no school grants, would be collectively entitled upon the basis of territorial extent, to ascertain which it was necessary to make a statement of the territorial extent of each state. For reasons, to be found in the third division of these remarks, in which we propose to discuss the best mode of carrying the principle of the Maryland Resolutions into effect, we think the territorial basis the best for ascertaining the aggregate amount of land, to which the Atlantic states and Kentucky are in equity entitled. But the reader will discover, by referring back to the Maryland Resolutions, that no proposition whatever is made as to the amount, which justice requires they should receive, the form in which the lands should be granted, or the manner or proportions in which they ought, when granted, to be distributed. The General Assembly of Maryland leave those matters entirely to Congress, by whom alone the decision can be made. In short, Maryland simply asserts the justice of the claim, but does not presume to point out the mode in which justice should be done.

We ought, perhaps, to have stated before, that the only Reports and Resolutions, adverse to those of Maryland, which we have seen, and we believe the principal ones, which have been made and adopted by legislative bodies, are those of Ohio and Massachusetts. An adverse Report was made to the House of Representatives in the state of New York by a Committee, but no resolutions were appended to it, and we believe the Report was never acted upon at all, and, if at all, by one branch only of the

Legislature. The course which Ohio has taken is perhaps not to be wondered at; but that of Massachusetts has excited much surprise throughout the country, and if we are rightly informed, in Massachusetts itself. It wears the appearance of great disinterestedness, and her decision, from this circumstance, as well as the high respectability of her Legislature, is calculated to have much weight on public opinion, and to raise some opposition to the accomplishment of an object, essential, as we think, to the ends of justice, to the prevention of state jealousies, to the welfare of the country, to the elevation of the national character, and to the permanence of our free institutions. It is on this account, that we have thought it important to point out the errors of the statement in regard to the MARYLAND PROPOSITION, upon the faith of which the Legislature of Massachusetts, if we are rightly informed, decided, *without examination and without debate.*

Having now shewn what we conceive to be the real meaning and extent of the MARYLAND PROPOSITION, and endeavoured to correct the misconstructions put upon it, we will now lay before the reader the reasons, which have led us to the conclusion, that its accomplishment is not only consistent with justice, but required by it.

In discussing this part of the subject, I shall make free quotations from Mr. Maxcy's Report to the Senate of Maryland.

The principle, with which he sets out, is too plain and too obviously just to be disputed. It is this; that the *common property of the union* ought to be applied to *national* purposes only, and that when it is appropriated to the use and benefit of any *particular* state or states, to the *exclusion* of the others, the spirit of our national compact and the principles of justice are violated.

Applying this principle to the public lands, he says; "So far as these lands have been sold, and the proceeds been received into the national treasury, all the states have derived a justly proportionate benefit from them;—So far as they have been appropriated for purposes of defence, there is no ground for complaint; for the defence of every part of the country is a common concern;—So

far, in a word, as the proceeds have been applied to NATIONAL, and not STATE purposes, although the expenditure may have been local, the course of the general government has been consonant to the principles and spirit of the Federal Constitution. But so far as appropriations have been made, in favour of any state or states, to the exclusion of the rest, where the appropriations would have been beneficial, and might have been extended to all alike, your committee conceive there has been a departure from that line of policy, which impartial justice, so essential to the peace, harmony, and stability of the union, imperiously prescribes."

He then proceeds to shew, by a calculation, which we took notice of in the beginning of these remarks, the amount of public lands, that have been and will be bestowed on the new states and territories, formed out of them, for the promotion of education exclusively within their limits.

If Congress have power to promote education in one state by the donation of land, it surely has the same power to benefit the others in the same way, or to the same extent in a different way, if circumstances should render a different way expedient. To show, that the new states have no claim to school grants, which is not equally possessed by the others, the following train of reasoning is used in the Maryland Report;

"The circumstance, that the lands, which have heretofore been appropriated for the purposes of education, are a part of the territory of the states, for whose benefit they have been assigned, can furnish no reasonable ground for the preference, which has been given them. The public lands are not the less the common property of all the states, because they are situated within the jurisdictional limits of the states and territories, which have been formed out of them. Such states have no power to tax them;—they cannot interfere with the primary disposal of them, or with the regulations of Congress for securing the title to purchasers; it is in fact Congress alone, that can enact laws to affect them. The interest, which a citizen of an Atlantic state has in them, as a part of the property of the union, is the same as the interest of a citizen residing in a state formed out of them. But, hitherto, appropriations of them for *state purposes* have only been made in favour of such states; and the citizen on the eastern side of the Alleghany may well complain, that property, in which he has a

common interest with his fellow-citizen on the western side, should be appropriated *exclusively* to the use of the latter. That this is the fact in regard to that part of the public lands, which have been assigned for the support of literary institutions and the promotion of education, cannot be denied.

"Your Committee do not censure the enlightened policy, which governed Congress in making liberal appropriations of land for the encouragement of learning in the west, nor do they wish to withdraw one acre of them from the purposes, to which they have been devoted; but they think they are fully justified in saying, that impartial justice required, that similar appropriations should have been extended to all the states alike. Suppose Congress should appropriate 200,000 acres of the public lands for the support of Colleges and Academies in New York; and Virginia, who gave up and ceded a great portion of those lands to the United States, on the express condition, that *"they should be considered as a common fund for the use and benefit of all of them, according to their usual respective proportions in the general charge and expenditure,"* should apply for a similar grant, and her application should be refused;—would she not have a right to complain of the partiality of such a measure, and to charge the Federal Government with a breach of good faith, and an infringement of the conditions, on which the cession was made? It cannot be denied, that she would. Congress have already made a grant of 200,000 acres of land for the support of Colleges and Academies, not indeed in New York, but in Tennessee. Would not Virginia, if she now made an application for a like grant, and were refused, have the same reason to complain, as if New York, instead of Tennessee, had been the favoured state?

"Your Committee beg leave to illustrate, by another example, the equity of the principle, which it is the object of this Report to establish. Foreign commerce and the public lands alike are legitimate sources, from which the United States may and do derive revenue. Foreign commerce has fixed its seat in the Atlantic states. Suppose Congress should pass a law, appropriating one thirty-sixth part of the revenue, collected from foreign commerce in the ports of Baltimore, New York, Boston, Norfolk, Charleston and Savannah, to the support of common schools throughout the states, in which they are situated; the

other states, every person will admit, would have a right to complain of the partiality and injustice of such an act;—and yet, in what respect would an act appropriating one thirty-sixth part of the revenue, derived from foreign commerce to the use of schools in the six states, in which it should be produced, be more partial or unjust than an act appropriating one thirty-sixth part of the public land, in Ohio, Indiana, Illinois, Tennessee, Mississippi, and Alabama, the six states, in which the public lands on this side of the Mississippi are chiefly situated, to their exclusive benefit in the maintenance of their schools?"

The Maryland Committee might have enforced their reasoning by a still more powerful and apposite illustration. Suppose Congress, instead of land, had appropriated for the support of common schools, one thirty-sixth part of the money arising from the sales of public land, in each of the states and territories formed out of them, could it refuse similar donations, upon the application of the other states, without a manifest violation of justice?

In another part of their argument, the Maryland Committee remark, that they "are aware, that it has been said, that the appropriation of a part of the public lands to the purposes of education, for the benefit of the states formed out of them, has had the effect of raising the value of the residue, by inducing emigrants to settle upon them. Although in the preambles of such of the acts on this subject, as have preambles, the promotion of religion, morality and knowledge, as necessary to good government and the happiness of mankind, have been assigned as the reason for passing them, and no mention has been made of the consequent increase in the value of the lands, that would remain, as a motive for the appropriation; yet the knowledge, that provision had been made for the education of children in the west, though other motives usually influence emigrants, might have had its weight in inducing some to leave their native homes. If such has been the effect, the value of the residue of the lands has no doubt been increased by it. This increase of value however has not been an *exclusive* benefit to the Atlantic states; but a benefit *common* to all the states, eastern and western, while the latter still enjoy, *exclusively*, the advantage, derived from the appropriations of land for literary purposes. The incidental

advantage of the increase in value of the public lands, in consequence of emigration, if it is to be considered in the light of a compensation to the old states, must be shewn to be an advantage *exclusively* enjoyed by them. That this however is not the case is perfectly obvious—because the proceeds of the lands, thus raised in value by emigration, when sold, go into the United States treasury, and are applied, like other revenues, to the *general* benefit—in other words, to NATIONAL and not to STATE purposes.

"It is moreover most clear, that this increase of the value of lands in consequence of emigration, produces a peculiar benefit to the inhabitants of the new states, in which the inhabitants of the other states, unless owners of land in the new, have no participation. This benefit consists in the increase of the value of their own private property.

"On the other hand, it is undoubtedly true, that emigration is injurious to the Atlantic states, and to them alone. While it has had the effect of raising the price of lands in the west, it has, in an equal ratio at least and probably in a much greater, prevented the increase of the value of lands in the states, which the emigrants have left. It is an indisputable principle in political economy, that the price of every object of purchase, whether land or personal property, depends upon the relation, which supply bears to demand. The demand for land would have been the same, or very nearly so, for the same number of people, as are contained within the present limits of the United States, if they had been confined within the limits of the Atlantic states. But the supply in that case would have been most materially different. It must have been so small in proportion to the demand, as to occasion a great rise in the value of land in the Atlantic states; for it cannot be doubted, that it is the inexhaustible supply of cheap and good land in the west, which has kept down the price of land on the eastern side of the Alleghany. If the Atlantic states had been governed by an exclusive, local and selfish policy, every impediment would have been thrown in the way of emigration, which has constantly and uniformly operated to prevent the growth of their numbers, wealth and power; for which disadvantage the appreciation of their interest in the public lands, consequent upon emigration, can afford no adequate compensa-

tion. It appearing then perfectly clear to your Committee, that emigration is exclusively advantageous to the new states, whose population, wealth and power are thereby increased at the expense of those states, which the emigrants abandon, the inducement to emigration furnished by the appropriation of public lands for the purposes of education in the west, instead of affording a reason for confining such appropriations to that quarter of the union, offers the most weighty considerations of both justice and policy, in favour of extending them to the states, which have not yet obtained them."

Such are the principal arguments urged in the Maryland Report. The candid reader will judge of their weight. We apprehend, they ought to be considered conclusive in support of the claim set up for those states, in whose favour no appropriations of public land for the purposes of education have yet been made, unless it can be made to appear, that the citizens of the other states, to whom grants have been made, have paid not only a *consideration*, but a full *consideration* or *equivalent* for them. This, in the opinion of the Massachusetts Committee, they have paid, in the *higher price*, which they have given for their lands, than they would have given, had no school reservations been annexed to them, and they attempt to prove it by an elaborate argument, a clear view and statement of which is sketched in the extract from their Report, which follows;

"But can these reservations," the Committee ask, "be justly considered as grants or donations to any state, in which they lie? A system for the survey and sale of the public lands has been adopted, originating in the celebrated ordinance of 20th of May, 1785, before the adoption of the present constitution, and modified by sundry acts of Congress. According to this system, lands intended to be sold are surveyed before they are offered for sale, being actually divided into townships six miles square, and these sub-divided into thirty-six sections, each one mile square, and containing 640 acres. One of these sections, in each township, is uniformly reserved and given in perpetuity for the support of schools in the township. This plan being adopted and made known, before the township is offered for sale, it is manifest, that every purchaser, whether he take the whole or any part of a township, purchases his land with this privilege annexed,

and pays a full consideration for the privilege in the price given for the land, to which such privilege is thus previously annexed. The United States, as proprietors of a township thus surveyed, offer it for sale on these terms; that if a purchaser, or company of purchasers will pay for the thirty-five sections, at the price fixed, they shall be entitled to a grant thereof in fee, and the United States will for ever hold the thirty-sixth section in trust for the use and benefit of such purchasers and their assigns, for the support of schools. When land is taken at this offer, the contract becomes complete, and the United States are bound to execute this trust with fidelity; and it would be a manifest breach of faith, to compel such purchaser, in any shape, to pay a further equivalent for the privilege thus stipulated and paid for. But it would be obviously compelling such purchaser thus to pay again for this benefit, if in consequence of such reservations, other lands or other funds, should be appropriated to the use of all other citizens of the United States, from the benefit of which such purchaser should be excluded."

The reasoning, contained in the above extract, places the adverse side of the question in a stronger point of view, than any we have seen, and appears at first satisfactory and even conclusive; but it will nevertheless be found, we apprehend, upon deeper reflection and closer scrutiny, to be entirely unsupported both in principle and by facts.

In endeavouring to answer this argument we shall take for granted, what we presume the Massachusetts Committee themselves will not refuse to admit, that *no consideration whatever has been paid for the school lots, unless a higher price has been given for the lands, to which they are annexed, than would have been paid, if no reservations had been made.*

Let us consider in the first place the *principle,* by which price is regulated. It will not be disputed, we presume, that *the price of any thing, offered for sale without restriction, depends upon the relation, which supply bears to demand.* Intrinsic value does not determine it. Thus air, though necessary to existence, bears no price, because the supply is unlimited. Diamonds, on the contrary, which contribute chiefly to the gratification of vanity and the love of ostentation, and but little to purposes of real

utility, bear an enormous price, because extremely rare. This principle might, if necessary, be illustrated by a thousand familiar instances. We daily see the price of agricultural produce and other commodities, rising and falling, as the relation between supply and demand alters, without any regard to quality or intrinsic value. Every planter and farmer knows, that his tobacco and wheat will sell high or low, as a demand for them is great or small in relation to the quantity raised and offered for sale. The case is the same with land. If a great number of farms in any neighbourhood be offered for sale, and there are but few purchasers, the price will be low. If, on the contrary, there are many purchasers and very few farms offered for sale, competition will raise the price very high.

Let us now apply this plain, acknowledged and indisputable principle to the sale of the public lands; and while we do it, let it be borne in mind, that school lots are annexed to all the public lands offered for sale. The quantity of these lands is for every practical purpose unlimited—the demand for them limited. It is plain, then, according to the above principle, the public lands would not bring more than some ten, fifteen, twenty, or twenty-five cents an acre, and probably not even so much, if a price was not fixed by law, below which they should not be sold. A complete proof of this is, that you can buy excellent military bounty lands, the owners of which are at liberty to sell them for what they please, for forty dollars per quarter section, or one hundred and sixty acres, that is, for twenty-five cents per acre. To these military bounty lands are annexed school reservations in the same proportion as to the public lands of the United States. And yet these public lands sold, until within a few years, at two dollars per acre, and now sell for one dollar and twenty-five cents, though not a whit better in quality or situation than the military bounty lands. To what cause then are we to attribute this difference of price? Evidently not to the advantage of the school lots being annexed. For as we have just remarked, they are annexed to the military bounty lands as well as the public lands, and there is nothing to choose between them either in soil or situation. We are brought then irresistibly to the conclusion, that the difference in price is solely and entirely attributable to the circumstance, that the owners of the military bounty lands are at

liberty to sell them *as low as they please*, and the price is determined by the relation, which supply bears to demand, whilst on the other hand, the law affixed formerly the price of two dollars, and now affixes the price of one dollar and twenty-five cents *per acre*, as the *lowest*, at which any of the public lands shall be sold.

More than nineteen twentieths of the public lands, which have been disposed of, have been sold, it is believed, at the *minimum* price. In some instances indeed, they have been sold for more. In all these cases, however, it is confidently believed, that the price has been enhanced by some advantage of situation near navigable water or a town, or by some peculiarity of soil, which rendered the lands suitable for the cultivation of the more valuable agricultural products, such as the sugar cane, for the growth of which there is comparatively a scanty supply of suitable land.

There is no proof then, that the school lots, reserved in the new states, have been paid for in the *enhanced price* given for the lands, to which they are annexed. On the contrary, the reverse of this has been completely established in regard to all the lands, which have not been sold for more than the *minimum* price. It is incumbent then upon those, who oppose the Maryland Proposition, on the ground, that the school reservations have been paid for, to shew in the first place, that the lands to which they are annexed, have brought more than the *minimum* price; and secondly, if they have brought more, that the enhanced price is attributable to the advantage of the school lots, and not of local situation, which, it is confidently believed, cannot be done in a solitary instance.

The foregoing train of argument, supported as it is by experience and fact offers conclusive proof, that no higher price has been given for the new lands, than would have been given, had no school reservations been made, and of course that no consideration whatever has been paid for the school lots, by the purchasers of the lands, to which they are annexed. They must, therefore, be taken to be, actually and truly *donations* to the people of the States and Territories formed out of the public lands, as they are repeatedly called in acts of Congress. Nor can we, after diligent search, discover, either from Reports or Preambles of Acts, that they ever were intended by Congress for any other purpose than, (to adopt the language of the ordinance for the govern-

ment of the North Western Territory) the *"promotion of religion, morality and knowledge"* as *"being necessary to good government and the happiness of mankind."* We have a right moreover to conclude, that this benevolent motive was the only one, which actuated Congress, from their liberality in making donations of land for the support of Colleges and Academies, which the Massachusetts Committee acknowledge do not rest upon the same ground as the school grant, as well as the circumstance, that wherever sales or other dispositions of public land had been made previously to the organization of the system of school reservations, as in the instances of the United States Military Tract, the Connecticut Reserve, and the Virginia Reservations in Ohio, the amount of the school lots has been supplied from other unsold lands.

We do not, however, feel disposed to contend for the granting of the Maryland claim in favor of herself and the other states, similarly situated, on the ground, that Congress never intended the school reservations, (though we firmly believe they never did) as the means of raising the price of the public lands. We are willing to lay the intentions of Congress out of the question, and to admit that, if without intending it, the effect of the system has been to increase the price and to cause the purchasers of land to pay a higher price than they otherwise would have done, this circumstance would give support to the argument of the Massachusetts Committee; and the question which would then remain to be discussed would be, whether that increase of price amounted to a *full,* or only a *partial* consideration for the school grants. If only to a partial consideration, then the claim, advanced by Maryland, is still good; for it is perfectly consistent with both the spirit and letter of the resolution, setting forth that claim, to make an allowance to the favoured states for the amount of the consideration actually paid by them for their school reservations.

We think, on the other hand, that it would be perfectly fair in Maryland, even if farther inquiry should establish the fact, that Congress, instead of being actuated solely by the benevolent and disinterested motives, which we ascribe to them, had devised the scheme of school reservations for the purpose of enhancing the price of their public lands, to contend, if in point of fact it had not produced that effect, (as we think we have fully proved,)

that the Proposition contained in her Resolutions ought to be concurred in by all the other states, and granted by Congress.

We should feel ourselves, moreover, perfectly authorised, if the school reservations were found actually to have had the effect of enhancing the price to the purchasers of the public lands, and thereby of benefitting the United States, to contend nevertheless, if this beneficial result in favour of the Treasury of the United States should upon investigation be found to be produced at the expense of the old states, and to arise from a system, which operated injuriously to them by drawing off their population and wealth, and thereby depressing the price of land and other property within their limits, as well as their relative political importance in the union, that Congress would be bound by every principle of justice to remunerate those states, by a counterbalancing policy, in some form or other, for the loss thus sustained. Nor do we consider the circumstance, that this system, thus found to be injurious to the old states, received the sanction and support of their representatives in Congress, as having any bearing upon the question, as has been supposed. To contend, that their claim for the adoption of a remunerating policy, is barred and cut off by the act of their representatives, would be tantamount to asserting the monstrous doctrine, that the unforseen evil and injustice of a system of policy originating with one set of representatives, cannot be remedied and recompensed by another set, who have become satisfied by experience of its injurious tendency.

If those, opposed to the Maryland Proposition, should be willing to admit, that we have satisfied them, that the purchasers of public lands have paid no consideration for their school lots, in the shape of an *enhanced price* for the lands they have bought, to which they are annexed, but should still, nevertheless, contend that the prospect held out of a provision for the education of the rising generation, had increased emigration to the new states, and had thereby caused the amount of sales, though not made at an enhanced price, to be greater than it otherwise would have been, and that this increased amount of sales had been beneficial to the United States, we cheerfully admit it, but protest against the inference they would draw from it, that the Maryland Resolutions have no ground left to support them. This benefit, arising from the increased amount of sales, the proceeds of which go

into the common Treasury of the United States, is one, in which the new states participate *equally* with the old, while the former still enjoy *exclusively* the advantage of the provision for schools, made out of the *common* property of the union. To place the latter upon an equal footing, it is necessary that an equivalent provision should be made for their schools also out of the *common* property. This claim becomes peculiarly obvious and striking, when it is considered, that the benefit of the increased amount of sales, produced by increased emigration, in consequence of the school provision, has been obtained at the expense of the old states in the loss of their population and wealth, and the depression of the value of property within their limits, while the operation of the system has the effect of benefitting to precisely the same extent, the new states, by increasing their wealth and population. This view of the subject places the claim of Maryland and the other states similarly situated, in a most commanding point of view, and shews conclusively, that they are not only entitled to be placed on a footing of equality in relation to the provision for schools, but are moreover entitled, *in strict justice* to an additional remuneration for the loss and injury, which the system, heretofore pursued, has occasioned them. That system has increased the revenue of the general government—in the advantage of which the eastern and western states have shared alike. Both classes of states are thus far on a footing of equality. But that system has likewise produced two very great benefits to the western states—a provision for education, and an increase of population and wealth, in which the eastern states have had no share. Nay more, these benefits, thus *exclusively* enjoyed by the western states, have been produced at the expense of the eastern; for the provision for the schools in the west has been made out of property in which the eastern states have a *common* and *equal* interest with the western people, and from which therefore, they ought to derive a *common* and *equal* advantage, and just in proportion as the population and wealth of the western states have been increased by emigration, just in the same proportion, have the population and wealth of the eastern states been diminished.—And can any one, if this view of the case be correct, contend for a moment that the Maryland Proposition is unreasonable and extravagant, which only asks of

the General Government, *hereafter* to place the old states upon a footing of equality with the new, in relation to appropriations for the promotion of education, and makes no claim whatever, as in *strict justice* it might, for recompence for the past loss of their wealth and population, and the consequent depreciation of their property, and the diminution of their relative political weight in the union?

Having thus attempted, (with what success the impartial reader will judge,) to answer the objections made to the Maryland Resolutions by the Massachusetts Committee, and to set right their mistakes and unintentional misrepresentations of it, we proceed to examine a ground, taken in opposition to them in the Ohio Report, and a Report of a Committee on the Public Lands to the Senate of the United States. It is this, that the condition imposed upon the new states, by the compact, set forth in the former part of these remarks, not to tax lands, sold by the United States for five years after their sale, is a consideration paid by them for the school reservations. The Ohio Committee consider it a full consideration—the Committee on Public Lands in the United States Senate, on the contrary, allow the ground taken in the Maryland Report to be well supported as to the principle, and, in admitting, that it is expedient to grant something out of the sales of the public lands for the aid of schools in the old states, acknowledge that the condition above mentioned, ought not to be considered as a *full* consideration or *equivalent* for the appropriations for schools in the new states.

To judge whether the opinion of the Ohio Committee be correct, it is necessary to take into the calculation, not only the amount of the public lands, reserved for the promotion of education, but also the value of the Salt Springs and road fund, granted likewise on the same condition. That road fund consisted originally of one twentieth part, or five per cent of the nett proceeds of public land sold within the state, to be expended in roads leading from the navigable waters, falling into the Atlantic, to and through the state, and to be laid out under the authority of Congress. By a subsequent act in 1803, in lieu of this twentieth, the Secretary of the Treasury was directed to pay to such person, as may be authorised by the Legislature of Ohio to receive the same, three per *centum* of the net proceeds of

public lands, sold within the state, to be applied in making roads *within* the state. The amount, which has been and will be received under this law, is admitted by the Governor of Ohio, in a communication to the Legislature on the 4th December, 1821, to be not less than $600,000. With great deference to such high authority, when we take into consideration the large amount of public lands, which are already sold, and that at the date of the message, there were still remaining, according to a Report of the Commissioner of the General Land Office, almost 14,000,000 of acres unsold, we should estimate the value of this road fund at a much greater amount. Throwing the Salt Springs then out of the question, the value of which we have access to no means of estimating, we may fairly conclude, that the three per cent road fund is a full equivalent for the amount of taxes, that would be levied by a state, not oppressive, upon the same lands, from which it arises, for five years after their sale, when it is considered, that during that period not one half of them will be settled, and not one twentieth part of them productive from cultivation or any other cause. The highest rate of taxation, which we can possibly suppose would be adopted, would be less annually than one third of one *per centum* of the value of the lands. Multiplying this one third of one per centum by five, and estimating the value of the land at the price for which they have been sold, the result will be one and two thirds per centum of that value for the tax of the five years, less by one and one third per cent, than three per cent. If we deduct, with the Committee of Massachusetts, twenty-five per cent from the gross sales, for the expenses of sale and survey, three per cent, upon the net proceeds, which would remain, would still be greater in amount, than the taxes, that might have been levied upon the same lands for five years after their sale, at the rate supposed. We see then in this three per cent road fund, that Ohio receives more than an equivalent for the taxes, which she is restrained from imposing for five years. The school lands and the Salt Springs must both therefore be considered as purely *donations* from Congress to that state.

Let us now examine this subject in another point of view, and inquire, whether the obligation imposed upon Ohio, by the act admitting her into the union, not to tax the lands sold by the United States for five years after the sale, is not *beneficial* rather

than *injurious* in its effects to that state. The obvious and the chief effect, which this exemption from taxes is caluculated to produce, is to *increase emigration to the new states.* An exemption from taxes, however moderate, may be deemed important by poor settlers, who for the first few years are struggling for a subsistence. What then is the effect of this increased emigration upon Ohio herself? Obviously to benefit her in a most *essential* point, *by inducing emigrants to leave other states to settle there.* The object most dear to the heart of Ohio, when she first came into the union with but one representative in Congress, must have been to increase her population. To promote that object her own Legislature, if the stipulation with the government of the United States had not rendered its interference unnecessary, would, if true policy governed it, have passed a law granting the same exemption from taxes. A compliance then with the condition, upon which she received the invaluable grants of the United States for schools and roads, so far from being *burthensome,* has been beneficial, and contributed to promote her *primary* interest. This *pepper corn* consideration then, nay this consideration, *which has enhanced the value of the very thing which has been received for it,* might be urged by a *lawyer,* who was arguing the point, whether the United States were now at liberty to annul their contract with Ohio and withdraw their donations; but it is absurd to call it an *equivalent* for them. I may give one of my sons a deed of a valuable estate on condition, that he shall have industry and prudence enough to manure a given number of acres annually from the marlpits that are scattered over it. A compliance with this condition, though beneficial to himself, would deprive me of the power in point of law, of taking back the estate and annulling the deed, but who would consider it an *equivalent* for my bounty? And, *a fortiori,* who would consider it a bar to my making a similar grant to another son?

As Ohio, from this view of the subject, appears to have suffered no detriment from the restriction of her power to tax the lands, sold by the United States for five years, but on the contrary to have derived a benefit in the increase of her population and wealth, more than equivalent to the loss of the taxes, the inference would seem to be fair, not only, that the school lands and Salt Springs, but the road fund also are *donations.*

We need hardly remind the reader, that the same reasoning, which applies to Ohio, is equally applicable to all the states formed out of the public lands.

If nevertheless, after a full investigation of the subject, this exemption of the public lands from taxation, for five years after their sale, be considered injurious to the new states, whose population and wealth it has a tendency to increase at the expense of the old states, let it be abolished. It was stipulated by Congress with reference to the system of credit sales of public lands, according to which the deed, conveying the title of the United States to the purchaser, was rarely executed until the fifth year after sales were made. That system is now abolished, and sales for cash introduced. Payment being made at the time of sale, the title of the United States is at the same time transferred to the purchaser, and the exemption from taxes for five years is no longer necessary. If the new states complain of this exemption as burthensome, let it be done away. The old states, whose population and wealth it has a tendency to diminish, will not object to its repeal. A very small part only of the public lands, have as yet been sold, and, if Congress, upon viewing the subject in all the lights of which it is susceptible, should think the new states entitled to remuneration for the past restriction of their right to levy taxes upon that small part, let them make whatever further grant of public land may be deemed an adequate compensation. The Atlantic states, seeking for justice themselves, are perfectly willing it should, in every respect, be done to others. Their only aim is to be put upon a footing of equality with their sister states. To effect that purpose, in such way as Congress shall think just and right, is the only object of the Maryland Resolutions; and if Congress, upon a full examination and mature reflection, should be of opinion that the new states must still be considered as purchasers for a *valuable*, though not an *equivalent* consideration, let them grant to the old states appropriations of land for the purposes of education, upon equally favorable terms. In other words, let them give as good *bargains* to the old states as they have to the new.

We do not think it necessary to discuss an extraordinary ground, taken by the Ohio Committee, that property belonging to some of the old states, and admitted by common consent, before

any new states were formed, to belong to them, and never claimed by the United States, should, before school grants can with propriety be made in compliance with the Maryland Resolutions, be brought into the common fund; nor another still more extraordinary ground, taken by that Committee, which however, we think it proper to mention, that it may be seen to what strange arguments they have felt it necessary to resort for the purpose of resisting the just claim set forth in those Resolutions. The ground is this, that in the cession of the North Western Territory, including Ohio, Indiana, Illinois and Michigan, by Virginia, a condition was annexed, that the states, to be formed out of the ceded Territory, should be "distinct republican states, and admitted as members of the Federal Union, having the same rights of sovereignty, freedom and independence, as the other states." And they draw from this circumstance the extraordinary inference, that those states have not only a right to tax the public lands within their limits, notwithstanding the ordinance of Congress to the contrary, passed previously to their admission, but have a right to claim those lands as their *property*, notwithstanding the same instrument of cession by Virgina, expressly stipulates, that "all the lands within the Territory, so ceded to the United States, shall be considered as a common fund, for the use and benefit of such of the United States, as have become or shall become members of the Confederation or Federal Alliance of the states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and *shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatever.*"

The first stipulation, above recited in favour of the states to be formed out of the North Western Territory, manifestly relates solely to political rights; whereas, the latter as evidently refers to and indicates rights of property, ideas extremely distinct in their nature, but which the Ohio Committee seem strangely to have confounded.

It has been objected, that Congress cannot appropriate a part of the public lands to the purpose of promoting education in the several states, without a violation of the public faith; inasmuch as the net proceeds of the sales of public lands have by several acts of Congress been pledged for the payment of the public debt.

In answer to this objection we would say, that this pledge can be fairly understood to mean nothing more than that, whenever the public lands are sold for the purpose of raising revenue, the net proceeds of them shall be applied towards the extinction of the public debt. Congress were in the habit both before, and since these pledges were made, of appropriating the public land to a variety of specific purposes, and of course, the public creditors, when they received these pledges, were bound to understand them as extending only to the net proceeds of ordinary sales, and not as amounting to a mortgage of the whole amount of the public lands. If the latter unlimited construction be correct, all the laws granting military bounty lands are made in violation of the public faith, a supposition which, we believe, has never for a moment been entertained. The pledge then, as intended by Congress, and as understood by the creditors of the United States, extends not to the lands themselves, but only to the net proceeds of sales, made in the ordinary course of law for the purposes of revenue. Of course no objection to the Maryland Resolutions upon this ground is tenable.

Nor is the objection more tenable, which has been made on the ground of expediency, on account of the quantity of public lands, which would be requisite to satisfy the just claims of the Atlantic states and Kentucky; as it is clearly shewn in the Maryland Report, that less than two and a half *per centum* of the four hundred millions of acres, which according to Seybert's Statistical Annals, belong to the United States, will be sufficient for that purpose, if the plan proposed in the subsequent part of these remarks should be adopted.

If we have been successful, as we hope, in our humble attempt to prove, that the school appropriations in favour of the states, formed out of the public lands, have not been paid for in the *enhanced price*, given by the purchasers of the lands, to which they are annexed, nor by the exemption for five years of the lands, sold by the United States, from taxation by the states, within whose limits they lie, we apprehend, that the inference must be admitted, that the Maryland Resolutions are founded in justice, and that the claim therein set forth, in favour of the states, which have had no appropriations of public lands for the purposes of education ought to be granted.

We shall now endeavour, according to the order prescribed in the beginning of these remarks, to discuss the mode in which the objects of the Maryland Resolutions may be obtained.

The principal difficulty in fixing upon a plan, which shall secure equal justice to all, arises from the difference in the circumstances of the states, in whose favour appropriations of school lands have been made, and of the others. The former are made out of the public lands. The fund for education therefore, is at hand, and actually consists of a part of each township, reserved in its centre. The latter have no lands belonging to the United States within their limits. Of course a fund must be raised out of lands, situated at a distance, within the boundaries of other states and territories.

The people being the subjects of education, an appropriation for that purpose in the different states, ought to be proportioned to numbers; and this in *beneficial effect* has, in the states formed out of the public lands, been accomplished, however paradoxical the assertion may at first appear.

Let it be recollected, that the school grants in these states are *reservations in perpeptuity* of lots No. 16, in the centre of every township. These lots can never be sold. Their value as a fund for the promotion of education, depends upon the rent which they will bring. In unsettled townships they will bring none. In townships, thinly settled, where land, in fee simple, can be purchased cheaply, they will bring but little. But they will command a high rent in townships thickly settled, where the price of land in fee simple will be high, and *rentable* land of course in demand. In short, *cæteris paribus*, the rent of these school lots will be *in proportion to population.* Their value therefore, as a fund for the support of schools, will be proportionate to *numbers*, and *will increase with them*—an advantage, by the way, incident to the local situation of the new states carved out of the public lands, which cannot be extended to the other states; for when lands at a great distance shall be appropriated to the latter for the purposes of education, they must necessarily be sold, and when sold, the value of the fund becomes fixed, and cannot increase.

From the foregoing view, it appears, that the school grants in the new states, though in form they are proportioned to *territo-*

rial extent, operate nevertheless *beneficially* in a just proportion to *population*, and of course, as respects those states, in entire conformity with the spirit of justice and the principles of the Constitution, as well as the meaning of the condition of the cessions by Virginia and the other states, to wit, that the lands ceded should enure to the benefit of the states, "according to their usual respective proportion in the general charge and expenditure," which is in proportion to representation in Congress, and of course in proportion to federal numbers.

Although the Massachusetts Committee were mistaken in supposing, that the Maryland Legislature had proposed territorial *extent*, as the basis of a *ratio* by which public lands, if granted by Congress, should be distributed amongst the Atlantic states and Kentucky, yet it is true, that in the Maryland Report a calculation was made upon that basis. The principal object, however, of that calculation, was to shew the *aggregate* quantity to which, according to it, they would be entitled. And this *ratio*, I think, upon mature reflection, is the best that can be adopted for the purpose of ascertaining the *aggregate* number of acres, which justice as well as sound policy requires to be assigned for the benefit of those states. For, although the number of acres devoted to the purpose of education in the west, be much greater, in relation to present population, than would fall to the lot of the east, yet, in fact, no substantial injustice will be done; for it is to be borne in mind, that the school lands in the states, formed out of the public lands, are *reserved* in *perpetuity*, in the middle of each township, and of course will be of no use or value for the purposes of education, as has just been shewn, until the townships are peopled; so that, in fact, as to *practical benefit*, the grants in the west will be operative according to *population*, though, in form, they are made upon the basis of *territory*.

The *territorial apportionment* is the only one *practicable*, as *between the two great divisions of the country*, comprising, on the one hand, the states and territories which have received grants, and on the other, the states for whose benefit none have been made. On the basis of *population*, the latter would be entitled to four times as much as has been given to the former. This would require an amount of appropriation for the purposes of education which sound policy, in reference to revenue, would forbid, and

which, though equal at *present*, would operate most unjustly on the *future* population of the west. On the contrary, it cannot be concealed, that the *territorial apportionment* gives an advantage to the states formed out of the public lands, which it is impracticable to extend to the others. The advantage consists in this; that the school lands in the former, being *reserved in perpetuity* for the promotion of education, can never be sold, and, therefore, constitute a fund, which will continue to augment in value in proportion to the increase of population; and an acre of land, which, upon the first settlement of a township, would not, if exposed to sale, bring two dollars, may, in process of time, when population becomes dense, be worth fifty or even a hundred dollars.

This is a view of the subject, which, if those heretofore presented be not deemed sufficient, ought surely to silence all objections from the western states on the score of the stipulation made not to tax the lands sold by the United States for five years after their sale; for, after making all the deduction on this account, that can possibly come within the bounds of reason, the advantage, arising from this mode of distribution, and resulting from their local situation, will still lie on the side of those states. It is hoped, however, as there is no certain or even probable rule, by which this relative advantage can be estimated, and as an attempt to value it would involve the subject in endless difficulty, that the states, which have as yet received no grants, will be actuated by a patriotic spirit of conciliation and compromise, and remain satisfied with a *territoral apportionment*, as between them and their more fortunate sisters of the west.

Should Congress adopt this *territorial apportionment*, as the rule, by which to ascertain the quantity to which the Atlantic states and Kentucky are entitled, let them then authorize the President by law, to cause to be selected out of such parts of the public domain, as he may deem expedient, and to be laid off in the same manner as military bounty lands have heretofore been laid off, a number of tracts, in different parts of the public lands, which shall in the *aggregate* make up the quantity required. These lands, being distant from the states, for whose benefit they are intended, and within the jurisdiction of others, cannot, either with advantage or convenience, be distributed amongst them

respectively, either for the purpose of rent or sale. The objections to such a plan are too obvious and striking, to require any notice of them. Let them then be sold under the authority of Congress, according to the laws regulating the sale of other public lands, at such times, and in such quantities, as to them may appear expedient, and let the proceeds be paid over, by the Secretary of the Treasury, to Commissioners appointed by each of the states entitled to receive a share, in such proportions as may be determined by Congress. Let these Commissioners be obliged to render an annual account of the application of these proceeds to the Secretary of the Treasury in the same manner, as the Commissioners of the three per cent road fund in the new states now do.

According to this plan, no land could be sold below the *minimum* price of other public lands, and Congress would have it in their power to guard against any inconvenience on the score of revenue, by prohibiting the sale of school lands, whenever from a stagnation of trade or other causes, the receipts into the Treasury from other sources, than the sale of public lands, should be inadequate to the exigences of the government. On the other hand, whenever revenue should be abundant, and be amply sufficient to meet all demands upon the Treasury, without the aid of the proceeds of sales of public lands, Congress might direct a larger portion of the school lands to be brought into the market.

But after the proceeds of the school lands are paid into the Treasury, and Commissioners are appointed by each of the states interested, to receive their respective shares, a point of greater difficulty, than any which we have discussed, presents itself. In what proportions shall the proceeds of the school lands be divided amongst the several states entitled to receive them? Shall they be distributed according to *extent of territory*, according to *population*, or according to a *ratio compounded of both?* These are the three different bases of apportionment, which most obviously present themselves. It is manifest, however, when we take into consideration the various and rapid change of relative population in the several states, that there is no rule by which *exact* justice can be done, or rather by which it can be ascertained, what would be *exact* justice. The members of Congress, from the different states interested, must therefore be sensible of

the necessity of bringing into the settlement of this difficult point a conciliating temper, and endeavour, in a spirit of equity, to make such a compromise of conflicting interests and pretensions, as will, under the various aspects of which the subject is susceptible, be most *likely* to satisfy the ends of reciprocal justice.

In considering this subject, let it be borne in mind, that the appropriation in question, is intended to raise a permanent fund for the benefit, not only of the *present generation*, but for all *posterity*. This provision in the states, formed out of the public land, as has heretofore been shown, will be constantly increasing in value in each township, in which the school section is reserved, in proportion to the increase of the population. Although made, therefore, upon a *territorial* basis, it nevertheless is perfectly equitable as it respects *population*. This, however, would not be the result of a *territorial apportionment* in the states, which have not been formed out of the public lands.

The object to be obtained by the appropriation now asked for, is the education of the *people* of the several states. Justice would seem to require, then, that it should be distributed according to the *numbers* to be educated. A *territorial apportionment*, therefore, when we consider the inequality of the population in the several states, in reference to their extent, would be far from equitable.

On the other hand, a *numerical apportionment*, though it would be just at the moment when made, would cease to be so, as soon as the relative population of the states should change, the provision in question being for the *future* as well as the *present*. It is obvious, also, as the land appropriated must be sold by degrees, and the proceeds be gradually paid over and invested by the states, as received, a numerical ratio fixed this year, would not be applicable to the next. A just *numerical apportionment* would, therefore, be impracticable.

From the above views, a *compound ratio* of *population* and *extent of territory* would seem to be the one, which, under all circumstances, would be most equitable. In other words, let *one-half* of the proceeds of the *aggregate* quantity of land, which shall be assigned to satisfy the just claims of the states, which have yet had no grants for the purposes of education, be distri-

buted amongst them according to their *federal* numbers, and the *other half* according to their *extent of territory* respectively.

This plan, if the population of the *future*, as well as the *present*, be taken into consideration, would ultimately distribute the benefits of the education fund more nearly, than any other rule, according to *numbers*. Thus, the present generation, in states of large extent and sparse population, would have a better proportion for education, than the inhabitants of the states, covered with a dense population. On the other hand, although the provision for the education of the present generation in thickly settled states, will not be so good in proportion to numbers, as it will be in the states with a thin population; yet past experience in relation to the progress of population, which naturally tends to vacant territory, teaches us to expect, that this disadvantage will be daily diminishing, and when the population becomes equally dense, or nearly so in all the states, an equivalent advantage will be enjoyed by those states, which have at present a dense population.

According to this plan, then, the states with a *dense* population, will gain in *future*, what they lose at the *present* time; and the states with a *sparse* population, will lose at a *future* period, what they gain at *present*. And thus the account of advantage and disadvantages will not only be settled by the different states but also between the present generation and posterity.

In whatever point of view, then, this subject is placed, the *compound ratio* of apportionment will manifestly come nearer to the point of equal and exact justice, than any other that has been suggested.

Such are the outlines of a plan for carrying the Maryland Resolutions into effect, which, though others more suitable to the purpose may be suggested, appear to us to be practicable, and well adapted to the attainment of the object proposed by them. We beg leave to observe, that in this feeble attempt to promote that object, we have abstained raising the general arguments, which might be urged to show the expediency of devoting a small part of the public domain, to the purpose of enlightening the mind and elevating the character of a free people. These would be more particularly appropriate and necessary, if the question were now an original one, and no partial appropriations

had hitherto been made. We have, therefore, confined ourselves to the limits, that were occupied by the Maryland Report, which first called the attention of the other states to this subject, and which embraced such arguments only, as were calculated to show, that equal and impartial justice, as well as the spirit of our federal compact, required, that appropriations of public lands, proportional to such as had already been made in favour of a *part* of the states, should be extended to *all*. That Report does not complain of the grants to the hitherto favoured states, nor aim at divesting a single right or privilege, which has been given them. On the contrary, it applauds the wisdom and patriotism, which gave birth to so enlightened and liberal a system of policy and only contends, that equity now requires an extension of it to *all* parts of the country alike. It does not presume to prescribe the mode in which justice shall be done, but merely asks of Congrees to do it in such a way, as to them shall seem expedient and effectual.

We have attempted in these remarks, to answer such objections to the Maryland Proposition, as have arisen from a misapprehension of its nature. We have also endeavoured to obviate such as are applicable to the measures, which have been supposed to be necessary to carry the principle of it into effect, rather than to the principle itself, by venturing, with great deference, to suggest a practicable plan, for placing, as nearly as the nature of things will allow, all the states of the Union upon an equal footing. This plan, together with the arguments which we have offered in support of the Maryland Resolutions, as well as in answer to the objections which have been made to them, we now submit to a candid and impartial public, and will only add, that those Resolutions appear to us to be founded in the strictest principles of justice and sound policy. Their object is to provide the means of enlightening the people, who are not only the only legitimate source of power, but also the tribunal, by which the proper exercise of it is to be finally tried. The stability of our free institutions, therefore, depends upon a general diffusion of knowledge. No axiom in political science is clearer than that EDUCATION *should be co-extensive with the* RIGHT OF SUFFRAGE. To make it so, is the ultimate object of the Maryland Resolutions. Their success is connected with the highest interests of

freedom and good government; and the Congress which shall carry into effect the great national scheme of education, which they propose, will build up an everlasting monument to their own fame, in the perpetuity which it will ensure to the liberty and glory of their country.

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